

FEB 24 2005

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Palmgren et al.

Serial No.: 09/671,005

Filed: September 27, 2000

For: METHODS AND APPARATUS FOR UTILIZING A PROPORTIONAL HAZARDS MODEL TO EVALUATE LOAN RISK

Group: 3624

Examiner: Weisberger, Richard C.

Durham, North Carolina
February 24, 2005Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATION OF FACSIMILE TRANSMISSION

Sirs:

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax. No. 703-872-9306 on the date set forth below

1. Restriction Requirement (3 pages)Marianna Tortorelli

Printed name of person signing

Marianna Tortorelli

Signature

Date: February 24, 2005

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Alexandria, VA 22313-1450**RESPONSE TO RESTRICTION REQUIREMENT**

Dear Sir:

Applicants here respond to the Restriction Requirement mailed February 10, 2005, and request reconsideration and withdrawal of the requirement. That requirement invited restriction to one of the two inventive groups categorized by the Examiner as follows:

Group I. Claims 1-11 and 30-38, drawn to a method of using a proportional hazards model and apparatus for doing the same.

Group II A. Claims 12-16 and 26-29 and B. 17-25 and 39, drawn to a method of using a hat function model and apparatus for doing the same.

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The restriction requirement is traversed as improper in light of the close relationship between the claims categorized in the two groups. As stated in MPEP § 803, "Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent or distinct.** If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." (emphasis added) This section continues "There must be a serious burden on the examiner if restriction is not required." (emphasis added)

The analysis of the Restriction Requirement does not demonstrate that a serious burden is presented to search and examine all of the present claims. As discussed in detail below, the analysis of the Restriction Requirement does not support the suggested restriction. The Restriction Requirement states "Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation. The specification teaches the hat function at page 11-12 and the proportional hazards mold at pages 13-14. Each model has features which are mutually exclusive." (emphasis added).

As an initial matter, MPEP § 808.01 explicitly states "[t]his situation, except for species, is but rarely presented, Furthermore, contrary to the quoted analysis, the proportional hazards and hat models were both disclosed and claimed in combination. See for example, p. 15, lines 18-20 ("both proportional hazards and hat functions will be employed in combination"); p. 16, line 13-page 18, line 5 (addressing process 1100 employing both proportional hazards and hat functions); and claims 8, 9, 36 and 37. Consequently, the two models are not mutually

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exclusive. Additionally, all of the claims have been previously examined on the merits in the previous Official Action mailed June 29, 2004. Under such circumstances, MPEP § 811 "Time for Making Requirement" is explicit:

Before making a restriction requirement after the first action on the merits, the examiner will consider whether there will be a serious burden if restriction is not required.

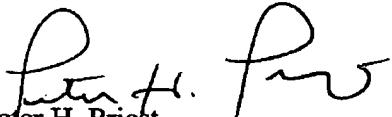
No such consideration has been shown here and the restriction should be withdrawn.

As noted above, one important factor in a restriction requirement is an analysis of the burden on the Office to perform the necessary searching. Here, the Examiner has not even established that the suggested claim groups are classified in different classes for search purposes. In the event the restriction requirement is maintained, applicants provisionally elect the Group I claims for prosecution.

Conclusion

The Restriction Requirement should be reconsidered and withdrawn.

Respectfully submitted,


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